

CREW | citizens for responsibility and ethics in washington

September 26, 2019

By Email

Laurie Day
Chief, Initial Request Staff
Office of Information Policy
U.S. Department of Justice
Suite 11050
1425 New York Avenue, N.W.
Washington, D.C. 20530-0001

Re: Expedited Freedom of Information Act Request

Dear Ms. Day:

Citizens for Responsibility and Ethics in Washington (“CREW”) makes this expedited request for records pursuant to the Freedom of Information Act (“FOIA”), 5 U.S.C. § 552, and U.S. Department of Justice (“DOJ”) regulations.

First, CREW requests all communications between Attorney General William Barr or anyone acting on behalf of Attorney General Barr, and Rudolph (“Rudy”) Giuliani, or anyone acting on Mr. Giuliani’s behalf, from February 14, 2019, to the present.

Second, CREW requests all communications between Attorney General William Barr or anyone acting on behalf of Attorney General Barr, and Ukrainian President Volodymyr Zelensky, or anyone acting on President Zelensky’s behalf, from April 21, 2019, to the present.

Third, CREW requests all communications between DOJ and Ukrainian President Volodymyr Zelensky, or anyone acting on President Zelensky’s behalf, from April 21, 2019, to the present.

Please search for responsive records regardless of format, medium, or physical characteristics. We seek records of any kind, including paper records, electronic records, audiotapes, videotapes, photographs, data, and graphical material. Our request includes without limitation all correspondence, letters, emails, text messages, facsimiles, telephone messages, voice mail messages, and transcripts, notes, or minutes of any meetings, telephone conversations, or discussions. Our request also includes any attachments to emails and other records, and anyone who was cc’ed or bcc’ed on any emails.

If it is your position any portion of the requested records is exempt from disclosure, CREW requests that you provide it with an index of those documents as required under *Vaughn v. Rosen*, 484 F.2d 820 (D.C. Cir. 1973). If some portions of the requested records are properly exempt from disclosure, please disclose any reasonably segregable non-exempt portions of the

requested records. *See* 5 U.S.C. § 552(b). If it is your position that a document contains non-exempt segments, but that those non-exempt segments are so dispersed throughout the document as to make segregation impossible, please state what portion of the document is non-exempt, and how the material is dispersed throughout the document. *See Mead Data Central v. U.S. Dep't of the Air Force*, 566 F.2d 242, 261 (D.C. Cir. 1977).

Please be advised that CREW intends to pursue all legal remedies to enforce its right under the FOIA to access these documents. Accordingly, because litigation reasonably is foreseeable, DOJ should institute an agency-wide preservation hold on documents potentially responsive to this request.

Fee Waiver Request

In accordance with 5 U.S.C. § 552(a)(4)(A) and DOJ regulations, CREW requests a waiver of fees associated with processing this request for records. The subject of this request concerns the operations of the federal government, and the disclosures likely will contribute to a better understanding of relevant government procedures by CREW and the general public in a significant way. *See* 5 U.S.C. § 552(a)(4)(A)(iii). Moreover, the request primarily and fundamentally is for non-commercial purposes. *See, e.g., McClellan Ecological v. Carlucci*, 835 F.2d 1282, 1285 (9th Cir. 1987).

The nation has been rocked by revelations that President Trump in at least one phone call with the newly elected president of Ukraine pressured the Ukrainian government to investigate Hunter Biden, the son of one of his political rivals. Yesterday the White House released what it said was a transcript of a July 25, 2019 telephone conversation between Presidents Trump and Zelensky. At several points during that conversation President Trump noted he was going to ask Attorney General Barr to call President Zelensky as part of President Trump's request that the Ukraine government open an investigation into former Vice President Joe Biden, one of his political rivals, and Mr. Biden's son.¹ This follows reporting in May that President Trump wanted Attorney General Barr "to look into the material gathered by the Ukrainian prosecutors," referring to Hunter Biden's involvement in an Ukrainian owned gas company.² Earlier today, the House Intelligence Committee released an unclassified version of a complaint filed with the Inspector General of the Intelligence Community in August 2019 that regarding concerns that President Trump was using the power of his office to encourage a foreign country to interfere in the 2020 election. The whistleblower complaint, which extensively discussed the July 25 phone

¹ *See, e.g.,* Rebecca Ballhaus and Sadie Gurman, [Rough Transcript Shows Trump Pressed Ukraine to Look Into Joe Biden's Son](https://www.wsj.com/articles/white-house-to-release-transcript-of-trumps-ukraine-call-as-impeachment-efforts-begin-11569403803?mod=article_inline), *Wall Street Journal*, Sept. 25, 2019, available at https://www.wsj.com/articles/white-house-to-release-transcript-of-trumps-ukraine-call-as-impeachment-efforts-begin-11569403803?mod=article_inline.

² Kenneth P. Vogel, [Rudy Giuliani Cancels His Trip to Ukraine, Blaming Democrats' 'Spin'](https://www.nytimes.com/2019/05/11/us/politics/rudy-giuliani-ukraine.html), *New York Times*, May 11, 2019, available at <https://www.nytimes.com/2019/05/11/us/politics/rudy-giuliani-ukraine.html>.

call between Presidents Trump and Zelensky, raised concerns that “Attorney General Barr appears to be involved as well.”³

The requested records are likely to contribute to public understanding about the extent to which the Attorney General has been involved with and/or acted at the request of President Trump in the President’s effort to use the power of his office to pressure Ukraine into digging up or fabricating negative information on a political rival. Attorney General Barr and DOJ have come under heightened public scrutiny given their role in initially preventing the Acting Director of the ODNI from disclosing to Congress the complaint from a whistleblower related to these events as well as the analysis of that complaint by the Inspector General of the Intelligence Community.

CREW is a non-profit corporation, organized under section 501(c)(3) of the Internal Revenue Code. CREW is committed to protecting the public’s right to be aware of the activities of government officials, to ensuring the integrity of those officials, and to highlighting and working to reduce the influence of money on politics. CREW uses a combination of research, litigation, and advocacy to advance its mission. CREW intends to analyze the information responsive to this request and to share its analysis with the public through reports, press releases, or other means. In addition, CREW will disseminate any documents it acquires from this request to the public through its website, www.citizensforethics.org. The release of information obtained through this request is not in CREW’s financial interest.

CREW further requests that it not be charged search or review fees for this request pursuant to 5 U.S.C. § 552(a)(4)(A)(ii)(II) because CREW qualifies as a member of the news media. *See Nat’l Sec. Archive v. U.S. Dep’t of Defense*, 880 F.2d 1381, 1386 (D.C. Cir. 1989) (holding non-profit a “representative of the news media” and broadly interpreting the term to include “any person or organization which regularly publishes or disseminates information to the public”).

CREW routinely and systematically disseminates information to the public in several ways. CREW’s website receives tens of thousands of page views every month. The website includes blogposts that report on and analyze newsworthy developments regarding government ethics, corruption, and money in politics, as well as numerous reports CREW has published to educate the public about these issues. In addition, CREW posts the documents it receives under the FOIA on its website.

Under these circumstances, CREW satisfies fully the criteria for a fee waiver.

Request for Expedition

³ *See, e.g.,* Sam Brodey and Allison Quinn, [Bombshell Whistleblower Complaint Released: White House Covered Up Trump’s Ukraine Call](https://www.thedailybeast.com/trump-impeachment-redacted-whistleblower-complaint-at-center-of-inquiry-is-released), *The Daily Beast*, Sept. 26, 2019, available at <https://www.thedailybeast.com/trump-impeachment-redacted-whistleblower-complaint-at-center-of-inquiry-is-released>.

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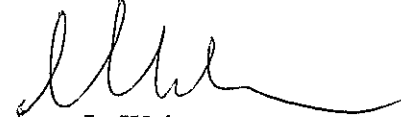
Finally, please be advised that CREW also has requested expedition of this request because its subject matter is of widespread and exceptional media interest and the requested information involves possible questions about the government's integrity that affect public confidence. Pursuant to 28 C.F.R. § 16.5(e)(2), CREW submitted that request to DOJ's Director of Public Affairs; a copy of that request is enclosed.

Conclusion

If you have any questions about this request or foresee any problems in fully releasing the requested records, please contact me at (202) 408-5565 or aweismann@citizensforethics.org. Also, if CREW's request for a fee waiver is not granted in full, please contact our office immediately upon making such a determination.

Where possible, please produce records in electronic format. Please send the requested records to me either aweismann@citizensforethics.org or Anne L. Weismann, Citizens for Responsibility and Ethics in Washington, 1101 K Street, N.W., Suite 201, Washington, D.C. 20005. Thank you for your assistance in this matter.

Sincerely,



Anne L. Weismann
Chief FOIA Counsel